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I hereby certify that this paper, together with all enclosures identified herein, are being deposited with the United States Postal Service as first class mail, addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on or before February 28, 2005.

2/25/05

Date

William L. King III

William L. Long TA

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of : Kloepfner et al.  
Examiner : Philip C. Tucker  
Serial No. : 10/662,665  
Group Art Unit : 1712  
Confirmation No. : 1885  
Filing Date : September 15, 2003  
Attorney Docket No. : GEN-011131 C1  
Title : ELECTROCHROMIC MEDIUM HAVING A SELF-HEALING CROSS-LINKED POLYMER GEL AND ASSOCIATED ELECTROCHROMIC DEVICE  
0001-10662665

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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**45 PETITION FOR TWO MONTH EXTENSION OF TIME**

Dear Sir:

In accordance with 37 C.F.R. §1.136, Applicant respectfully requests an extension of the period in which to file the response to the Office Action mailed September 28, 2004, relative to

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01 EC-1814

the above-identified patent application, for an additional two months, from December 28, 2004, up to and including February 28, 2005.

In accordance with 37 C.F.R. §1.136, Applicant respectfully submits that a response was originally required to be filed on or before December 28, 2004, a period of three months from the mailing date of the Office Action; that the above-identified patent application is not involved in an interference proceeding; and that Applicant hereby submits PTO Form 2038 in the amount \$450.00 for payment of the extension fee, pursuant to 37 C.F.R. §1.17(a)(2). Accordingly, Applicant petitions for acceptance of the presently requested two month extension of time.

If any other charges or fees must be paid or credited in connection with this communication, they may be paid out of Deposit Account No. 50-2131.

Respectfully submitted,

KING & JOVANOVIC, PLC

Dated: 2/25/05

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associated statement under 37 C.F.R. §3.73(b) which disclaims the terminal part of the statutory term of any patent granted on the present application, which would extend beyond the expiration date of the full statutory terms of U.S. Patent No. 6,635,194. Applicant hereby authorizes the statutory disclaimer fee in the amount of \$130.00, pursuant to 37 C.F.R. §1.20(d), to be paid via PTO Form 2038.

Claims 1-6, 8-11, 13, 14, 16-22, 24-27, 29, 30, 32-38, 40-43, 45, 46, 48-59, 61-64, 66, 67, and 69-74 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,928,572 (hereinafter the '572 patent) issued to Tonar et al., and claims 1-6, 8-11, 14, 16-22, 24-27, 30, 32-38, 40-43, 46, 48-59, 61-64, 67, and 69-74 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,679,283 (hereinafter the '283 patent) issued to Tonar et al. In particular, the Examiner contends that even though the '572 and '283 patents do not expressly teach a self-healing cross-linked polymer gel, the '572 and '283 patents teach polymers that: (1) are free-standing; (2) do not weep; (3) do not succumb to hydrostatic pressure; and (4) avoid haziness or cloudiness. Thus, the Examiner concludes that the polymers of the '572 and '283 patents are purportedly self-healing. Applicant respectfully traverses the Examiner's rejections.

It will be understood that, to the best of Applicant's knowledge, while the '572 and '283 patents disclose polymers that have properties discussed herein above, neither the '572 patent, nor the '283 patent disclose a self-healing cross-linked polymer as taught in the present application. Indeed, the self-healing cross-linked polymer gels disclosed and expressly claimed in the present invention, comprise a cohesive functional group present in a effective concentration to substantially diminish and/or eliminate visual irregularities and/or defects with the electrochromic medium (see paragraph 37 and examples 1-4, among others). To be sure, both

the '572 and the '283 patents, including the examples provided therein, are void of any such teaching. Thus these patents do not inherently disclose self-healing cross-linked polymer gels as the Examiner to contends. As such, Applicant respectfully submits that the present rejections of the above-identified claims under 35 U.S.C. §102(b) are improper. Accordingly, Applicant respectfully submits that the bases for rejection of the above-identified claims have been overcome and reconsideration and withdrawal of the 35 U.S.C. §102(b) rejections based upon the '572 and '283 patents are respectfully requested.

Applicant further submits that any subsequent 35 U.S.C. §103 rejection based upon the above-identified references, either alone or in combination with the prior art of record, would be improper inasmuch as there is no fair teaching or suggestion to modify the structures of the above-identified references to, in turn, arrive at Applicant's invention as claimed.

In light of the foregoing, Applicant respectfully submits that the application is in *prima facie* condition for allowance at the present time. Accordingly, Applicant respectfully requests reconsideration of the present application and passage toward issuance thereof.

If any other charges or fees must be paid or credited in connection with this communication, they may be paid out of our Deposit Account No. 50-2131.

Respectfully submitted,

KING & JOVANOVIC, PLC

Dated: 2/25/05

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